

Ref.  
**OPINIONS AND DECLARATIONS  
RENDERED BY THE INTER-  
NATIONAL COMMISSION ON  
ZOOLOGICAL NOMENCLATURE**

*Edited by*

**FRANCIS HEMMING, C.M.G., C.B.E.**

*Secretary to the Commission*

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**OPINION 10**

The designation of genotypes for genera  
published with identical limits, on, or before,  
31st December 1930.

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# INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

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*Executive Secretary* : Dr. Charles Wardell Stiles (U.S.A.).

*Recording Secretary* : Professor F. C. von Maehrenthal (Germany).-

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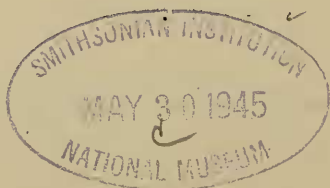
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## OPINION 10.

THE DESIGNATION OF GENOTYPES FOR GENERA PUBLISHED WITH IDENTICAL LIMITS, ON, OR BEFORE, 31ST DECEMBER 1930.

**SUMMARY.**—If on, or before, 31st December 1930,<sup>1</sup> two genera with the same limits are formed independently by different authors, without designation of genotypes, any subsequent author may designate the genotypes (Article 30(g)), and if the types designated are not specifically identical, the two generic names may (other things being equal) be used for restricted genera containing the types in question (Article 25).

### I.—THE STATEMENT OF THE CASE.

The following case has been submitted by Miss Mary J. Rathbun for *Opinion* :—

If two genera with the same limits are formed by different authors without designation of types, may a subsequent author, or subsequent authors, designate a different type for each genus and validate both genera ?

Example :—

Suppose *Cancer* Linnaeus, 1758,<sup>2</sup> is composed of species “a,” “b,” “c” and “d.”

*Phalangipus* Fabricius, 1799,<sup>3</sup> is also composed of species “a,” “b,” “c” and “d.”

May Rathbun, 1908, restrict *Cancer* to species “a” and “b,” designating “a” as type, and restrict *Phalangipus* to “c” and “d,” designating “c” as type, provided that there has been no restriction<sup>4</sup> or designation in the meantime ?

<sup>1</sup> See NOTE 2 below (pp. 176-177).

<sup>2</sup> *Cancer* Linnaeus, 1758, *Syst. Nat.* (ed. 10) 1 : 625 (Class Crustacea, Order Decapoda).

<sup>3</sup> There is no such name as *Phalangipus* Fabricius, 1799, that name being used in this context merely as an example of an imaginary case.

<sup>4</sup> There are no circumstances in which, under the International Code, the position as regards the type of a genus (such as the imaginary<sup>5</sup> genus *Phalangipus* Fabricius) published (i) without a type determined under rules (a), (b) or (c) in Article 30 and (ii) with more than two included species can be restricted until such time as a type is definitely designated under rule (f) or rule (g) in Article 30. As pointed out in NOTE 3 on pages 134 and 135 above, *Opinion* 6 provides for restriction only where the original genus contained two species and no more than two species and where later one of these species is made the type of a monotypical genus.

<sup>5</sup> It is important to note that the generic name (“*Phalangipus* Fabricius, 1799”) cited in the example given in the petition in this case is purely imaginary. The name *Phalangipus* was not published in 1799 either by

## II.—DISCUSSION OF THE CASE.

2. The principle involved may best be shown if a diagrammatic case be taken : *X-us*, 1850, and *Y-us*, 1860.

3. It is here assumed that *Y-us*, 1860, was not proposed as a substitute for *X-us*, 1850, but that it is a mere accident that the contained species are identical :—

1850	1860
<i>X-us albus</i>	= <i>Y-us albus</i> <sup>6</sup>
<i>X-us cinereus</i>	= <i>Y-us cinereus</i> <sup>6</sup>
<i>X-us flavidus</i>	= <i>Y-us flavidus</i> <sup>6</sup>
<i>X-us niger</i>	= <i>Y-us niger</i> <sup>6</sup>

4. It is assumed that no type (Article 30) has been designated by any author, upon any principle, for either genus, and that Rathbun, 1908, wishes to recognise two genera, one containing *albus* and *cinereus*, the other containing *niger* and *flavidus*.

5. Rathbun clearly has the right to designate types for both *X-us*, 1850, and *Y-us*, 1860 (Article 30(g)); as such types she may select any one of the four species (Article 30(g)); she may select the same species as type for both genera,<sup>7</sup> or she may select a different species for each genus. The generic names in question follow the species selected (Article 25).

6. Thus, if she selects either *albus*, *cinereus*, *flavidus* or *niger*

Fabricius or by anyone else. It was, in fact, not published until 1828, when it was published by Latreille, the earliest publication of this name being *Phalangipus* Latreille, 1828, *Ency. méth.* 10<sup>5</sup>(2) (Ins.) : 699 (Class Crustacea). It is most misleading that the petitioner in this case should have selected an existing generic name (*Phalangipus*) in the Class Crustacea as an example of a generic name in the same Class and should have attached to that name the name of an author who never published it and a date on which it was never published, especially as the imaginary date selected (1799) is far earlier than the actual date (1828) on which this name was first published. Such a selection is calculated to mislead the unwary reader and to lead him into the error of supposing that the name *Phalangipus* Latreille, 1828 (which is a nomenclatorially available name) is invalid as a homonym of the non-existent name "*Phalangipus* Fabricius, 1799."

<sup>6</sup> In accordance with Article 23 of the International Code the name of the author of this species would need to be cited in round brackets on the transfer of the species from its original genus (*X-us*, 1850) to another genus (*Y-us*).

<sup>7</sup> It will be noted that the decision here laid down by the International Commission covers the same ground as that laid down in paragraph 7 of *Opinion* 9. That decision, which is discussed in footnote 11 to that *Opinion* and also that here laid down in *Opinion* 10, antedate by four years the re-statement of the same decision rendered by the Commission in *Opinion* 62 in 1914.

as type of *both* genera, the two generic names become synonyms<sup>8</sup> (Article 25); if she selects either *albus* or *cinereus* for *X-us*, 1850, and either *niger* or *flavidus* for *Y-us*, 1860, or, if she selects either *albus* or *cinereus* for *Y-us*, 1860, and either *flavidus* or *niger* for *X-us*, 1850, the genera would follow the genotypes designated, and might become valid for restricted genera (Articles 30(g), 25, 29).

7. *Opinion* written by Stiles.

8. *Opinion* concurred in by nine (9) Commissioners: Blanchard, Graff, Hoyle, Jentink, Jordan,<sup>9</sup> Monticelli, Stejneger, Stiles, Wright.

9. *Opinion* dissented from by four (4) Commissioners: Dautzenberg, Joubin, Maehrenthal,<sup>10</sup> Schulze.<sup>10</sup>

10. Not voting two (2) Commissioners: Osborn, Studer.

### III.—SUPPLEMENTARY NOTES BY INDIVIDUAL COMMISSIONERS.

II. Maehrenthal and Schulze say: <sup>11</sup>—

- (1) Nur die erste Bestimmung des Typus der Gattung, die zweimal begründet und benannt wurde, kann gültig sein. Sobald erkannt wird, dass Species "*a*," "*b*," "*c*," "*d*" der beider Gattungen identisch sind, hat eine andere Bestimmung des Typus keine Gültigkeit.
- (2) Der Fall gehört zu den vielen Fällen, in welchen subjektiv zu entscheiden ist, ob es sich nur um einen neuen Namen für eine alte Gattung oder um einen Namen für eine neue Gattung handelt. In der Rehabilitierung bisher verworfener Synonyme könnte also die grösste Willkühr stattfinden.

### Editorial Notes by Francis Hemming, Secretary to the International Commission on Zoological Nomenclature.

#### NOTE I.

##### *Historical particulars.*

This *Opinion* was published in July 1910 (*Smithsonian Publication* 1938: 15–16), when the Smithsonian Institution first under-

<sup>8</sup> When the generic names *X-us*, 1850, and *Y-us*, 1860, are here stated to be "synonyms," the meaning is that they are synonymous with one another and that the later published of the two names (i.e. *Y-us*, 1860) is invalid as a synonym of the earlier published of the two names (i.e. *X-us*, 1850).

<sup>9</sup> The Commissioner here referred to is the late Commissioner David Starr Jordan not Commissioner Karl Jordan, the present President of the Commission, who at the time of the adoption of *Opinion* 10 was not a member of the Commission.

<sup>10</sup> See paragraph 11 below.

<sup>11</sup> In this *Opinion*, when published in 1910, the following translation was given of the note by Commissioners Maehrenthal and Schulze:—

- (1) Only the first designation of the type of a genus, which has been twice established and named, can be valid. As soon as it is recognized that species "*a*," "*b*," "*c*" and "*d*" of both genera are identical, a further determination of genotype has no validity.
- (2) The case is one of many, in which it is to be subjectively determined, whether it involves only a new name for an old genus or a new name for a new genus. In the rehabilitation of synonyms rejected to date the greatest arbitrariness might occur.



took to publish the *Opinions* rendered by the International Commission on Zoological Nomenclature.

2. This *Opinion* is undated but it cannot have been adopted earlier than on some date in 1908 (the earliest date on which the earlier *Opinion* 6 can have been adopted<sup>12</sup>) or later than some date in the first half of 1910, since (as shown above) it was published in July of that year.

3. For the reasons explained in paragraph 4 of NOTE 1 to *Opinion* 6,<sup>13</sup> no manuscript or other unpublished documents relating to this *Opinion* are preserved in the archives of the International Commission on Zoological Nomenclature.

#### NOTE 2.

*On the limitation imposed on Opinion 10 by the amendment of Article 25 of the International Code adopted by the Tenth International Congress of Zoology at Budapest in 1927.*

In 1927, the International Commission submitted a recommendation to the Tenth International Congress of Zoology at its meeting held at Budapest that Article 25 of the International Code should be amended by the addition of the following new proviso (proviso (c)) :—

- (c) that no generic name nor specific name published after 31st December, 1930, shall have any status of availability (hence also of validity) under the rules, unless and until it is published, either :—
  - (1) with a summary of characters (*seu* diagnosis; *seu* definition; *seu* condensed description) which differentiate or distinguish the genus or the species from other genera or species; or
  - (2) with a definite bibliographic reference<sup>14</sup> to such summary of characters (*seu* diagnosis; *seu* definition; *seu* condensed description); and further
  - (3) in the case of a generic name, with the definite unambiguous designation of the type species (*seu* genotype; *seu* autogenotype; *seu* orthotype).

2. The above addition to the Code was approved by the Tenth International Congress of Zoology and came into operation as from midnight 21st December 1930/1st January 1931 (Greenwich Mean Time).

3. As pointed out in NOTE 3 to *Opinion* 1,<sup>15</sup> the effect of the adoption of the foregoing amendment to Article 25 of the Code was to impose a limitation upon the application of *Opinions* previously rendered by the International Commission, interpreting

<sup>12</sup> See paragraph 2 to NOTE 1 to *Opinion* 6 (p. 132 above).

<sup>13</sup> See page 132 above.

<sup>14</sup> For an explanation of the expression "definite bibliographic reference" as here used in Article 25, see *Opinion* 138 (1942, *Opinions rendered by the International Commission on Zoological Nomenclature* 2 : 29-34).

<sup>15</sup> See pp. 76-78 above.

Article 25 of the Code. Every such *Opinion* remained valid and binding, as respects names published on or before 31st December 1930 (the last day prior to the coming into force of the Budapest amendment to Article 25), but, in so far as any such *Opinion* contained an interpretation of that Article at variance with the amended provisions adopted at Budapest, such *Opinion* ceased to be applicable in respect of any name published on or after 1st January 1931 (the date on which the Budapest provisions became operative).

4. The provision (quoted in paragraph 1 above) contained in section (3) of proviso (c) added to Article 25 at Budapest requires that when a new generic name is published, it must, in order to be available (hence valid), be accompanied by "the definite unambiguous designation of the type species." The situation envisaged in *Opinion* 10 cannot arise in the case of names published after 31st December 1930, for it is of the essence of this *Opinion* that at least one of the generic names concerned should have been published without a type, whereas, under the Budapest amendment to Article 25, any generic name so published is automatically invalid. The position is therefore that *Opinion* 10 remains valid and binding, as respects generic names published in the period from 1st January 1758<sup>16</sup> up to, and including, 31st December 1930, but it is no longer applicable as respects any generic name published after that date. It is for this reason that the words "on, or before, 31st December 1930" have been added at the end of the title of this *Opinion* and the same words have been inserted between the opening word "If" and the word "two" at the beginning of the "Summary."

FRANCIS HEMMING.

*Secretary to the International Commission  
on Zoological Nomenclature*

Secretariat of the Commission,  
at the British Museum (Natural History),  
Cromwell Road, LONDON, S.W. 7.

15th July, 1944.

<sup>16</sup> See NOTE 3 to *Opinion* 3 (pp. 98-100 above) for 1st January 1758 being taken as the starting date for zoological nomenclature.

## THE PUBLICATIONS OF THE COMMISSION.

(obtainable at the Publications Office of the Commission at 41, Queen's Gate, London, S.W.7.)

### Bulletin of Zoological Nomenclature.

This journal has been established by the International Commission as their Official Organ in order to provide a medium for the publication of:—

- (a) proposals on zoological nomenclature submitted to the International Commission for deliberation and decision;
- (b) comments received from, and correspondence by the Secretary with, zoologists on proposals published in the *Bulletin* under (a) above; and
- (c) papers on nomenclatorial implications of developments in taxonomic theory and practice.

The *Bulletin* was established in 1943, in which year three Parts were published. Part 4 was published in 1944. Parts 5 and 6 are in the press.

### Opinions and Declarations Rendered by the International Commission on Zoological Nomenclature.

The above work is being published in three volumes concurrently, namely:—

*Volume 1.* This volume will contain *Declarations* 1–9 (which have never previously been published) and *Opinions* 1–133 (the original issue of which is now out of print). Parts 1–20 (containing *Declarations* 1–9 and *Opinions* 1–11) have now been published. Further Parts will be published shortly.

*Volume 2.* This volume will be issued in 52 Parts, comprising all the decisions taken by the International Commission at their meeting at Lisbon in 1935, namely *Declarations* 10–12 (with Roman pagination) and *Opinions* 134–181 (with Arabic pagination). Part 52 will contain the index and title page of the volume. Parts 1–30, containing *Declarations* 10–12 and *Opinions* 134–160, have now been published. Further Parts will be published shortly.

*Volume 3.* This volume, which commenced with *Opinion* 182, will contain the *Opinions* adopted by the International Commission since their meeting at Lisbon in 1935. Parts 1–5 (containing *Opinions* 182–186) have now been published. Further Parts will be published as soon as possible.

## APPEAL FOR FUNDS

The International Commission appeal earnestly to all institutions and individuals interested in the development of zoological nomenclature to contribute, according to their means, to the Commission's Special (Publications) Fund. Of the total sum of £1,800 required to enable the Commission to issue all the publications now awaiting printing, donations amounting to £819 8s. 7d. were received up to 31st December 1944. Additional contributions are urgently needed in order to enable the Commission to continue their work without interruption. Contributions of any amount, however small, will be most gratefully received.

Contributions should be sent to the International Commission at their Publications Office, 41, Queen's Gate, London, S.W. 7, and made payable to the "International Commission on Zoological Nomenclature or Order" and crossed "Account payee. Coutts & Co."